

CCRB INVESTIGATIVE RECOMMENDATION

Investigator: Hilary Hudson	Team: Team # 1	CCRB Case #: 201103565	<input checked="" type="checkbox"/> Force	<input checked="" type="checkbox"/> Discourt.	<input type="checkbox"/> U.S.
			<input type="checkbox"/> Abuse	<input type="checkbox"/> O.L.	<input checked="" type="checkbox"/> Injury
Incident Date(s) Wednesday, 03/16/2011 2:30 AM	Location of Incident: inside and outside of § 87(2)(b)	Precinct: 79	18 Mo. SOL 9/16/2012	EO SOL 9/16/2012	
Date/Time CV Reported Wed, 03/16/2011 10:30 AM	CV Reported At: IAB	How CV Reported: Phone	Date/Time Received at CCRB Mon, 03/21/2011 12:09 PM		

Complainant/Victim	Type	Home Address
§ 87(2)(b)	§ 87(2)(b)	§ 87(2)(b)

Witness(es)	Home Address
§ 87(2)(b)	§ 87(2)(b)
§ 87(2)(b)	§ 87(2)(b)

Subject Officer(s)	Shield	TaxID	Command
1. POM Shibu Madhu	13609	944754	079 PCT
2. SGT Tony Brown	00367	936249	079 PCT

Witness Officer(s)	Shield No	Tax No	Cmd Name
1. POM Derrick McIntosh	08849	937068	079 PCT
2. POM James Helliesen	21458	882568	079 PCT
3. POM Awais Mazhar	12155	945243	079 PCT
4. POM Christophe Kocienda	15031	944704	079 PCT

Officer(s)	Allegation	Investigator Recommendation
A.POM Shibu Madhu	Discourtesy: PO Shibu Madhu spoke obscenely to § 87(2)(b) inside of § 87(2)(b) in Brooklyn.	§ 87(2)(b)
B.POM Shibu Madhu	Force: PO Shibu Madhu used physical force against § 87(2)(b) inside of § 87(2)(b) in Brooklyn.	§ 87(2)(b)
C.POM Shibu Madhu	Force: PO Shibu Madhu used physical force against § 87(2)(b) inside of § 87(2)(b) in Brooklyn.	§ 87(2)(b)
D.POM Shibu Madhu	Force: PO Shibu Madhu used physical force against § 87(2)(b) in front of § 87(2)(b) in Brooklyn.	§ 87(2)(b)
§ 87(4-b) § 87(2)(g)	§ 87(2)(b)	§ 87(2)(b)

Case Summary

On March 16, 2011, Sgt. Phelan of the 79th Precinct reported the following complaint to IAB after § 87(2)(b) reported the following incident to him (encl. 4A-C). IAB referred the complaint to the CCRB on March 21, 2011, under Log #11-12121 (encl. 5A-B).

On March 16, 2011, at approximately 2:30 a.m., § 87(2)(b) and § 87(2)(b) were engaged in a domestic dispute at § 87(2)(b) in Brooklyn and when several officers responded, the following allegations resulted:

- **Allegation A – Force: PO Shibu Madhu spoke obscenely to § 87(2)(b) inside of § 87(2)(b) in Brooklyn. § 87(2)(g)**
- **Allegation B – Force: PO Shibu Madhu used physical force against § 87(2)(b) inside of § 87(2)(b) in Brooklyn. § 87(2)(g)**
- **Allegation C – Force: PO Shibu Madhu used physical force against § 87(2)(b) inside of § 87(2)(b) in Brooklyn. § 87(2)(g)**
- **Allegation D – Force: PO Shibu Madhu used physical force against § 87(2)(b) in front of § 87(2)(b) in Brooklyn. § 87(2)(g)**
- § 87(4-b) § 87(2)(g)

Results of Investigation

Civilian Statements

Complainant/Victim: § 87(2)(b)

- § 87(2)(b) is a § 87(2)(b)-old black male, 5'10" tall, 180 pounds with black hair and dark brown eyes. § 87(2)(b)

Statements to Medical Personnel

According to the Ambulance Call Report, on March 16, 2011 at 11:54 a.m., § 87(2)(b) told EMTs that an officer punched him in the face three or four times (encl. 24A-V). He reported to § 87(2)(b) staff on § 87(2)(b) p.m. that he had been assaulted. § 87(2)(b) then reported at § 87(2)(b) that he was struck with fists and kicked.

Photographs

§ 87(2)(b) arrest photo shows that he had swelling to his right cheek and eye area (encl. 6D). There are no visible scratches to his face. He provided photos to the CCRB that were taken the following day on March 17, 2011 (encl. 6E-J). § 87(2)(b) had swelling to his right eye, a hematoma in his right eye, a red mark on the near the front of his right shoulder, redness and a scab to his left shin, an abrasion to his right arm, a chipped front left tooth, redness and scabbing to his back. Photos were taken of § 87(2)(b) at the CCRB on March 30, 2011, and he

had a scab to his right arm and a bump on his left shin (encl. 6K-M). He no longer had a chipped front left tooth as he had it repaired by a dentist.

CCRB Testimony

§ 87(2)(b) reported this complaint on March 15, 2011, and was interviewed at the CCRB on March 30, 2011 (encl. 6A-N). § 87(2)(g)

On March 16, 2011, at approximately 2:30 a.m., § 87(2)(b) got home (§ 87(2)(b) in Brooklyn) after hanging out at a friend's house, where he consumed four medium-sized plastic Solo cups of rum and Red Bull but denied being intoxicated. His girlfriend, § 87(2)(b) called him while he was out but he had not answered his phone. After arriving at home, § 87(2)(b) asked where he had been. § 87(2)(b) told her that he was tired and they could talk about it in the morning. Although he said they were involved in an argument, § 87(2)(b) clarified that it was a verbal disagreement that lasted for about two minutes. They did not yell and the situation never became physical. § 87(2)(b) son, § 87(2)(b) was in the apartment with them.

§ 87(2)(b) called the police because she was upset and scared that she did not know where § 87(2)(b) was (despite the fact that he was already home at the time). When she called, § 87(2)(b) changed his clothes and was washing his hands in the bathroom, so he did not hear what she told them.

§ 87(2)(b) was still in the bathroom when officers arrived at the apartment. He exited the bathroom and sat down on the couch. Six or seven uniformed male officers were in the living room. One officer, a dark-skinned Indian male, 5'10" tall, 160 to 170 pounds, medium build, was identified through the investigation as PO Shibu Madhu. Other officers were identified through the investigation as PO Awais Mazhar, PO James Helliesen, PO Christopher Kocienda, PO Derrick McIntosh, and Sgt. Tony Brown. § 87(2)(b) was in the hallway talking to an officer.

PO Madhu came up to § 87(2)(b) and asked what happened. § 87(2)(b) explained that § 87(2)(b) was upset because he had been out late, and he did not want to talk to her about it. PO Madhu told § 87(2)(b) to get his "shit" and get the "fuck" out. § 87(2)(b) refused to leave because he did nothing wrong. PO Madhu said § 87(2)(b) needed to leave because § 87(2)(b) "called." § 87(2)(b) still refused to leave because § 87(2)(b) never asked for him to leave, and reiterated that he did nothing wrong. PO Madhu walked up to § 87(2)(b) who was still seated on the couch, and put his hands in § 87(2)(b) face while calling him disagreeable. § 87(2)(b) felt PO Madhu was being disrespectful towards him. He tried to get up and told PO Madhu to get the "fuck" off him. He told PO Madhu that he was not getting "shit," to get the "fuck" out of his house, and to leave him the "fuck" alone because he had not done "shit" wrong.

PO Madhu pushed the right side of § 87(2)(b) face, causing the left side to press against the couch. § 87(2)(b) body turned sideways, toward his left. PO Madhu pulled § 87(2)(b) right arm behind his back. PO Madhu punched § 87(2)(b) once in the face and caused his front left tooth to chip. However, § 87(2)(b) later clarified that PO Madhu was not the officer who punched him then because PO Madhu was holding § 87(2)(b) head and arm. § 87(2)(b) could not tell which officer punched him in the face and chipped his tooth. § 87(2)(b) mouth was bloody and he bled on the couch. He was also punched several times on the back of his head by an officer he could not identify (but who the investigation determined to be PO Madhu), and sustained two knots to the area as a result. By then § 87(2)(b) had entered the living room and asked why they were hitting § 87(2)(b) in the head. Almost all of the officers had to handcuff § 87(2)(b) because he was resisting arrest. He was not being charged with anything and thus should not have been arrested.

After he was handcuffed § 87(2)(b) was picked up off the couch and removed from the living room. PO Madhu took him down the building's stairs. As they were going down the

stairs, PO Madhu turned § 87(2)(b) around and punched him once in the right eye. § 87(2)(b) right eye was bloodshot, swollen, bruised, and watery. PO Madhu rubbed the right side § 87(2)(b) face against the wall down a half flight of stairs, causing him to sustain scrapes to his face. PO Madhu then finished taking him downstairs. All of the officers came outside with them.

Once they got outside, PO Madhu took him over to a police car. He saw three or four police cars outside. § 87(2)(b) and § 87(2)(b) were still upstairs in the apartment, and he did not mention any civilian witnesses outside at the time. PO Madhu positioned § 87(2)(b) so that the front of his body was against the police car. PO Madhu kned § 87(2)(b) three or four times in the lower back; § 87(2)(b) was not injured from that. PO Madhu asked, “You like that, motherfucker?” PO Madhu then put § 87(2)(b) inside the car. As § 87(2)(b) entered the car he struck his left leg against the car, and his left shin was bruised and swollen as a result.

§ 87(2)(b) was taken to the stationhouse and directly from there to § 87(2)(b) via ambulance. § 87(2)(b) learned at § 87(2)(b) that he sustained a fracture to his right eye, but the fracture was so small that the doctors could not operate on it. He was prescribed an antibiotic. § 87(2)(b) back had scrapes and scratches but he could not say how he sustained them. His handcuffs were tight and his wrists were cut and bleeding.

From § 87(2)(b) he went back to the stationhouse, and then to Brooklyn Central Booking for arraignment. He was charged with § 87(2)(b), which he denied. He did not know if any officers were injured but was informed at the stationhouse that an officer went to the hospital. § 87(2)(b) went to the dentist on § 87(2)(b) and § 87(2)(b) and had his tooth fixed. He then went to § 87(2)(b) on § 87(2)(b).

Witness: § 87(2)(b)

- § 87(2)(b) is a § 87(2)(b)-old black female, 5’11” tall, 280 pounds, with black hair and brown eyes. She refused to provide her employment information.

CCRB Testimony

§ 87(2)(b) was interviewed at the CCRB on April 8, 2011 (encl. 7A-D). On March 16, 2011, before 2:15 a.m., § 87(2)(b) called her boyfriend, § 87(2)(b) about ten times on his cell phone. He had left home (§ 87(2)(b) in Brooklyn) earlier in the day and she wanted to know where he was. § 87(2)(b) never answered her calls.

When § 87(2)(b) got home between 2:15 a.m. and 2:30 a.m., she asked what happened and where he had been. She could tell he had consumed a few drinks but he did not appear to be drunk. § 87(2)(b) did not want to answer § 87(2)(b) and so they argued. § 87(2)(b) got upset and called 911 from her bedroom in order to have the police get § 87(2)(b) out of the apartment for the night. She told the 911 dispatcher that no weapons were involved but she just wanted him to leave. § 87(2)(b) did not remember if she told 911 that § 87(2)(b) was drunk. § 87(2)(b) never had a knife during the argument.

Ten to twelve uniformed male officers responded quickly. One officer was identified through the investigation as PO Christopher Kocienda, and described by her as a white male, 5’6” tall, blue or green eyes, with blond hair. Another officer, identified through the investigation as PO Shibu Madhu, was described by her as a male, possibly of West Indian descent, 6’0” tall, 180 to 190 pounds, brown skin, curly hair, muscular build, in his 30s, and whose name she obtained later from § 87(2)(b) attorney. Two officers were black males (identified through the investigation as Sgt. Tony Brown and PO Derrick McIntosh). The investigation also determined that PO Awais Mazhar and PO James Helliesen were present. § 87(2)(b) son, § 87(2)(b) was home at the time and she learned later that he went into her bedroom and watched the incident from a window looking into the living room.

PO Kocienda asked § 87(2)(b) to step outside the apartment with him. PO Kocienda told § 87(2)(b) that she should press charges on § 87(2)(b) so that they could arrest him. From the hallway § 87(2)(b) was able to hear an argument between § 87(2)(b) and the officers. An officer told § 87(2)(b) to leave because it was what § 87(2)(b) wanted. § 87(2)(b) asked what he had done wrong. The officer responded that they just needed § 87(2)(b) to leave so the situation did not escalate. § 87(2)(b) still refused to leave. An unknown officer told § 87(2)(b) to get the “fuck” out of there. She did not hear an officer tell § 87(2)(b) to get his “shit” together. An officer then said they would have to arrest both § 87(2)(b) and § 87(2)(b) but immediately stated that they had no reason to arrest § 87(2)(b) and would only arrest § 87(2)(b).

When § 87(2)(b) heard a loud scuffling noise she ran into the apartment. § 87(2)(b) was seated on the couch, handcuffed, and his face was against the couch. Between eight to ten of the officers (including PO Madhu) surrounded § 87(2)(b) and beat on him multiple times on the top/back of his head. PO Madhu pulled § 87(2)(b) off of the couch and dropped him on the floor. § 87(2)(b) began screaming. She never saw § 87(2)(b) try to punch or kick the officers. Unknown officers told § 87(2)(b) that they tried to get him out and he resisted arrest. An unknown officer said they wanted to take § 87(2)(b) to the hospital.

Officers picked him up and started to escort him out of the apartment. § 87(2)(b) saw that § 87(2)(b) face was swollen and blood was coming from his mouth. One of his teeth was broken. Nothing was wrong with § 87(2)(b) eyes at that point. § 87(2)(b) stayed in the hallway when § 87(2)(b) was taken out of the building. PO Madhu rubbed § 87(2)(b) face against the wall as they walked down the stairs. She did not see an officer punch § 87(2)(b) in the eye or face. She did not exit her building at that time. She did not hear an officer complain of being injured at the scene and did not see any officers with injuries.

Officers brought her a paper and asked her to write that § 87(2)(b) was resisting arrest. She refused to do that and wrote what she saw the officers do to § 87(2)(b). She did not believe that § 87(2)(b) resisted arrest and thinks he was set up. § 87(2)(b) saw § 87(2)(b) at Central Booking on March 17, 2011 in the afternoon. He had told her that officers beat him up at the stationhouse. His right eye was red inside and bruised. He had a gash on his wrist, swelling to his shin, and a gash on his back. She was unable to say how he sustained those injuries.

Witness: § 87(2)(b)

- § 87(2)(b) is a § 87(2)(b)-old black male, 5'11" tall, 160 pounds, with black hair and brown eyes. § 87(2)(b)

CCRB Testimony

§ 87(2)(b) was interviewed at the CCRB on April 8, 2011 (encl. 8A-D). On March 16, 2011, at approximately 2:30 a.m., § 87(2)(b) awoke when police officers arrived at his apartment, § 87(2)(b) in Brooklyn. § 87(2)(b) was in his own bedroom at the time. He had not heard an argument between his mother (§ 87(2)(b) and § 87(2)(b) before the officers arrived. § 87(2)(b) walked into § 87(2)(b) bedroom, which is adjacent to the living room and has a window § 87(2)(b) looked through to watch the following incident. § 87(2)(b) was in the bathroom when the officers arrived but walked into the living room. § 87(2)(b) believed that § 87(2)(b) was intoxicated because § 87(2)(b) was more aggressive and would have acted differently if he had been sober.

§ 87(2)(b) saw seven to eight uniformed male officers in the apartment. A white male officer (identified through the investigation as PO Christopher Kocienda) took § 87(2)(b) to the hallway outside the apartment. An officer identified through the investigation as PO Shibu

Madhu was described as a male of possibly Native American descent, brown skin tone, 6'0" tall, average build, and 27- to 28-years-old. Other responding officers were identified through the investigation as PO James Helliesen, PO Awais Mazhar, PO Derrick McIntosh and Sgt. Tony Brown.

§ 87(2)(b) heard officers say that either § 87(2)(b) or § 87(2)(b) had to leave or both of them would be arrested. § 87(2)(b) asked why the male always had to leave. One of the officers repeated again said that one needed to leave or both would be arrested. § 87(2)(b) said they could both get arrested but § 87(2)(b) objected to that. § 87(2)(b) was standing at first but sat down on the couch. One of the white male officers told § 87(2)(b) that he was “fucking pissing” him off. § 87(2)(b) was not able to say whether an officer told § 87(2)(b) to get his “shit” and get the “fuck” out. § 87(2)(b) never heard § 87(2)(b) tell the officers to get the “fuck” out of the apartment and leave him the “fuck” alone.

PO Madhu told § 87(2)(b) to put his hand behind his back. § 87(2)(b) continued to ask why he had to leave. He never saw § 87(2)(b) try to punch the officer(s) because PO Madhu grabbed him right away. PO Madhu twisted § 87(2)(b) arm behind his back while pushing him into the couch. PO Madhu was trying to handcuff § 87(2)(b) and punched him in the eye. All of the officers helped handcuff him. Once he was handcuffed, § 87(2)(b) fell to the floor. PO Madhu punched § 87(2)(b) twice on the top/back of his head. He never saw § 87(2)(b) kick at officers, flail his arms, or swat at an officer’s hands. § 87(2)(b) never saw § 87(2)(b) hold his hands against his body, refusing to be handcuffed. § 87(2)(b) had come back into the apartment and told the officers to stop. § 87(2)(b) did not see any other officers besides PO Madhu use force against § 87(2)(b) other than when handcuffing him.

§ 87(2)(b) tooth was chipped and he had blood on his mouth. There was blood on the sheets on their couch. § 87(2)(b) found the piece of the tooth after the incident. § 87(2)(b) did not see any other injuries to § 87(2)(b). § 87(2)(b) did not see swelling or an injury to one of § 87(2)(b) eye. § 87(2)(b) did not hear an officer complain about being injured and never saw an officer with an injury.

The officers took § 87(2)(b) out of the apartment. § 87(2)(b) watched from the apartment doorway but did not follow or go outside with them. § 87(2)(b) did not see an officer punch § 87(2)(b) in the face at that point. Three officers (including one of the white officers and either PO McIntosh or Sgt. Brown) took § 87(2)(b) downstairs. § 87(2)(b) told him later that officers rubbed his face against the wall, but § 87(2)(b) did not see that.

NYPD Statements:

Subject Officer: PO SHIBU MADHU

- § 87(2)(b) -old Asian male, 5'10" tall, 210 pounds, with black hair and brown eyes.
- On the date of the incident, assigned to sectors N, P, and Q. He worked from 11:15 p.m. on March 15, 2011, until 7:50 a.m. on March 16, 2011, was partnered with PO Awais Mazhar, was dressed in uniform, and was assigned to a marked police car #5067.

Memo Book

On March 16, 2011, at 2:09 a.m., there was a report of a dispute with a knife at § 87(2)(b) in Brooklyn (encl. 9A-C). At 2:10 a.m., PO Madhu and PO Mazhar arrived at § 87(2)(b). § 87(2)(b) was under arrest at 2:30 a.m. At § 87(2)(b) PO Madhu went to § 87(2)(b) via ambulance, escorted by PO Mazhar. He was out on a LOD injury for the next three days.

Criminal Complaint and Arrest Reports

PO Madhu prepared § 87(2)(b) criminal complaint and arrest reports (encl. 10A-E). At 2:10 a.m. on March 16, 2011, inside of § 87(2)(b) in Brooklyn, while trying to escort the intoxicated § 87(2)(b) to the hospital, § 87(2)(b) got violent and refused numerous direct orders from PO Madhu. § 87(2)(b) then tried to punch PO Madhu and several other officers. He also kicked officers. He refused to be handcuffed by flailing his arms initially, then swatting PO Madhu's hand, then refused to place his hands behind his back and held it against his body, disobeying direct orders from PO Madhu. § 87(2)(b) said, "Fuck you, I don't give a shit about you, you are in my house." He was charged with § 87(2)(a) 160.50 § 87(2)(b).

Line of Duty Report

On March 16, 2011, at 2:30 a.m., inside § 87(2)(b) PO Madhu was trying to restrain and effect a lawful arrest when § 87(2)(b) punched and kicked him (encl. 11). During the struggle, PO Madhu injured his right shoulder and right forearm. § 87(2)(b)

CCRB Testimony

PO Madhu was interviewed by the CCRB on June 28, 2011 (encl. 12A-B). On March 16, 2011, at 2:10 a.m., PO Madhu and PO Mazhar responded to a domestic dispute with a knife at § 87(2)(b) in Brooklyn. When they arrived, PO James Helliesen and PO Christopher Kocienda were already inside of the apartment. Sgt. Tony Brown and PO Derrick McIntosh arrived after PO Madhu and PO Mazhar. He did not remember if other officers responded later.

§ 87(2)(b) was seated on a futon in the living room. § 87(2)(b) appeared extremely intoxicated. His eyes were bloodshot and watery, there was a heavy odor of alcohol on his breath, and he was combative and belligerent. § 87(2)(b) told the officers to get the "fuck" out of his apartment and said "fuck" the police. § 87(2)(b) was also in the apartment but in a nearby room. They were not arguing in the officers' presence, but they were not cooperative with the officers. There was no signs of a knife at the scene and neither § 87(2)(b) nor § 87(2)(b) mentioned a knife being involved in the dispute. PO Madhu saw no other civilians in the apartment.

§ 87(2)(b) and an unknown officer exited the apartment. PO Madhu wanted to take § 87(2)(b) to the hospital for detoxification. He was not under arrest at that time. § 87(2)(b) was still seated on the futon; PO Helliesen was to his right and PO Madhu was to § 87(2)(b) left. The officers asked him to put some clothes on (he was dressed in boxer shorts) but he refused and punched PO Helliesen in the face.

PO Madhu tried to grab § 87(2)(b) hand but he flailed his arm away and kicked at PO Madhu. The officers attempted to pick § 87(2)(b) up off the futon because they did not have access to rear handcuff him. § 87(2)(b) kept swinging his arms and kicking in order to prevent being arrested. PO Madhu and the other officers told him numerous times to stop resisting and to put his hands behind his back. He did not comply with their instructions. PO Madhu punched § 87(2)(b) in the face more than once; he could not remember how many times. After he punched § 87(2)(b) the officers were then able to handcuff him.

§ 87(2)(b) refused to stand up and made his body go limp, causing himself and other officers to fall on the floor. He then refused to get up. PO Madhu carried § 87(2)(b) from one side while PO Mazhar helped from behind § 87(2)(b) PO Madhu never punched § 87(2)(b) in the face outside of the apartment. PO Madhu had to carry § 87(2)(b) down the three flights of

stairs out of the building and over to a police car parked outside. He did not rub § 87(2)(b) face against the walls while going down the stairs. It is unclear when or if § 87(2)(b) put on additional clothing.

When PO Madhu and PO Mazhar started to put § 87(2)(b) in the vehicle, he screamed and kicked PO Madhu. They backed him up a little, bent him over, and pushed him in head-first. § 87(2)(b) never commented that he struck his shin against the vehicle. PO Madhu did not knee § 87(2)(b) in the back or use profanity when speaking to him. § 87(2)(b) was transported to the stationhouse and from there, via ambulance to § 87(2)(b). § 87(2)(b) had bruising to his face. PO Madhu did not notice any redness or bloodiness to one of § 87(2)(b) eyes or if one of § 87(2)(b) front teeth was chipped during the incident.

PO Madhu went to § 87(2)(b) at § 87(2)(b), accompanied by PO Mazhar. PO Madhu injured his right hand and right shoulder during this incident. He had a contusion to his hand and shoulder strain. PO Madhu was prescribed pain medication but he did not fill the prescription and took Advil. He went “line of duty” for three days. PO Helliesen also went to the hospital but PO Madhu was unaware of PO Helliesen’s injuries or whether he went out on a line of duty injury.

Witness Officer: PO AWAIS MAZHAR

- § 87(2)(b) -old Asian male, 6’2” tall, 195 pounds, with black hair and brown eyes.
- On the date of the incident, assigned to sectors N, P, and Q. He worked from 11:15 p.m. on March 15, 2011, until 7:50 a.m. on March 16, 2011, was partnered with PO Shibu Madhu, was dressed in uniform, and was assigned to a marked police car.

Memo Book

On March 16, 2011, at 2:05 a.m. PO Mazhar and PO Madhu backed up sector C at a 10-52 [dispute] involving a knife at § 87(2)(b) (encl. 12A-B). At 2:29 a.m., one arrest was made and Sgt. Brown transported one male to the 79th Precinct stationhouse. § 87(2)(b)

Line of Duty Witness Statement

On March 16, 2011, at 2:25 a.m., while trying to effect a lawful arrest, § 87(2)(b) resisted arrest by flailing his arms and kicking PO Madhu (encl. 14). During the struggle that ensued, PO Madhu injured his right shoulder and right forearm while trying to restrain § 87(2)(b). § 87(2)(b) also refused to comply with direct orders from PO Madhu and refused to get up from the floor and went limp, requiring PO Madhu to lift and carry the defendant down three flights of stairs.

CCRB Testimony

PO Mazhar was interviewed by the CCRB on June 30, 2011 (encl. 15A-B). On March 16, 2011, at 2:05 a.m., PO Mazhar and PO Madhu responded to a domestic dispute with a knife at § 87(2)(b) in Brooklyn in order to back-up officers assigned to sector C. PO Mazhar did not remember who those officers were. PO James Helliesen and PO Christopher Kocienda arrived on scene shortly after PO Mazhar and PO Madhu. Sgt. Tony Brown and PO Derrick McIntosh also responded after PO Mazhar.

§ 87(2)(b) who had called 911, and an unknown officer were standing in the hallway outside of Apt. § 87(2)(b) when PO Mazhar and PO Madhu arrived. PO Mazhar found § 87(2)(b) inside, seated on a sofa in the living room. PO Mazhar did not see any other civilians inside the apartment. § 87(2)(b) had the strong odor of alcohol on his breath and slurred his speech; he appeared to be highly intoxicated. The officers were going to take § 87(2)(b) to the

hospital for detoxification. PO Mazhar, PO Madhu, and a couple of other officers asked § 87(2)(b) to get up and get dressed but he refused. § 87(2)(b) said “fuck” the police and told them he did not give a “shit” because it was his house and he wanted them to leave.

The officers tried to convince § 87(2)(b) to cooperate for about five to ten minutes before § 87(2)(b) jumped up aggressively off of the sofa in PO Helliesen’s direction. PO Helliesen put his hand on § 87(2)(b) shoulder and pushed him back down on the sofa. § 87(2)(b) then punched PO Helliesen in the face an unknown number of times. At that point, § 87(2)(b) was under arrest for § 87(2)(a) 160.50. PO Helliesen and an unknown officer pushed § 87(2)(b) onto the sofa, so that § 87(2)(b) was practically lying on the sofa. PO Mazhar did not see PO Madhu punch § 87(2)(b).

PO Mazhar grabbed § 87(2)(b) right arm, which was underneath his body. § 87(2)(b) held both of his arms under his body while at the same time moving his arms to prevent the officers from grabbing him. § 87(2)(b) kicked at the officers until an unknown officer held down his legs. § 87(2)(b) continued to tell the officers to leave him alone and get out of his apartment. PO Mazhar told him between three to five times to put his hands behind his back but he did not stop resisting.

PO Mazhar eventually got § 87(2)(b) right arm behind his back. An unknown officer was then able to get his left arm behind his back and thus § 87(2)(b) was handcuffed. § 87(2)(b) then went completely limp and refused to move. PO Mazhar did not remember if § 87(2)(b) fell off of the sofa. He and PO Madhu had to carry § 87(2)(b) out of the apartment, down three flights of stairs, and out to their car. § 87(2)(b) kicked his legs all the way down the stairs. PO Madhu did not punch § 87(2)(b) in the face outside of the apartment. PO Madhu did not press or rub § 87(2)(b) face against the walls. That could not have happened because § 87(2)(b) was in between the two officers.

Once outside, § 87(2)(b) refused to get inside of the police vehicle. The car door was open and § 87(2)(b) put a foot against the seat in order to prevent the officers from putting him in. PO Mazhar and PO Madhu walked him back from the car a couple of steps, pushed his head down in order to get his head in the vehicle first, and were thus able to get him inside the car. PO Madhu did not knee § 87(2)(b) in the back or use profanity when speaking to him.

When they arrived at the stationhouse, PO Mazhar noticed that § 87(2)(b) had a scratch on his face or ear. PO Mazhar did not notice that one of § 87(2)(b) front tooth was chipped and did not hear him complain of that. He did not observe redness inside of § 87(2)(b) eye. PO Madhu and PO Helliesen were injured during the incident and went to the hospital. PO Helliesen had redness to his face from where § 87(2)(b) punched him. PO Madhu injured his shoulder as a result of carrying § 87(2)(b) down the stairs.

Witness Officer: PO JAMES HELLIESEN

- § 87(2)(b) -old white male, 6’0” tall, 235 pounds, with brown hair and hazel eyes.
- On the date of the incident, assigned to sectors K, J, and R. He worked from 11:15 p.m. on March 15, 2011, until 7:50 a.m. on March 16, 2011, was partnered with PO Christopher Kocienda, was dressed in uniform, and was assigned to a marked police car #4811.

Memo Book

On March 16, 2011 at 2:05 a.m., PO Helliesen and PO Kocienda backed a unit for a 10-52 at § 87(2)(b) (encl. 18). At 2:43 a.m. they left the scene. § 87(2)(b)

According to his memo book, PO Helliesen took no days off for a Line of Duty injury.

AIDED/Line of Duty Report

There was no electronic AIDED report prepared for PO Helliesen, and the 79th Precinct provided no Line of Duty paperwork for him (only for PO Madhu) (encl. 36G).

CCRB Testimony

PO Helliesen was interviewed by the CCRB on June 30, 2011 (encl. 19A-B). On March 16, 2011, at 2:05 a.m., PO Helliesen and PO Kocienda responded to a domestic dispute at § 87(2)(b) in Brooklyn. They were backing up a unit; PO Helliesen could not recall which one. PO Madhu, PO Mazhar, and possibly Sgt. Brown arrived on scene but PO Helliesen was unsure when. He did not remember if other officers responded.

§ 87(2)(b) was seated on a sofa inside of the apartment, incompletely clothed and yelling obscenities at the officers. He appeared to be agitated and intoxicated, and was behaving irrationally. § 87(2)(b) was in the hallway outside of the living room (still inside the apartment) and she was also yelling. § 87(2)(b) wanted § 87(2)(b) to leave the apartment. PO Helliesen did not see any other civilians in the apartment.

As PO Madhu tried to convince § 87(2)(b) to get dressed, § 87(2)(b) rose off the couch and lunged aggressively at PO Madhu. PO Helliesen was standing in front of § 87(2)(b) on his right side. PO Helliesen stopped § 87(2)(b) by pushing him back down on the couch. § 87(2)(b) then punched PO Helliesen once in the right side of his face, causing PO Helliesen to sustain a bruise.

The officers pushed § 87(2)(b) down on the couch. § 87(2)(b) punched at the officers, flailed his arms, and kicked at them. PO Helliesen did not give § 87(2)(b) any instructions but said there was a lot of yelling going on. § 87(2)(b) told the officers to get off of him. PO Helliesen was concentrated on handcuffing § 87(2)(b) and was unsure what any other officers were doing. He did not see an officer punch § 87(2)(b). After struggling with § 87(2)(b) for two to five minutes they were able to handcuff him.

PO Helliesen did not remember if § 87(2)(b) refused to walk after being handcuffed. He was unable to say if § 87(2)(b) demeanor changed after he was handcuffed. PO Helliesen did not see if § 87(2)(b) sustained a chipped tooth, bloodiness/redness to one eye, or swelling to his face. He did not see PO Madhu knee § 87(2)(b) in the back while attempting to get him in a police vehicle, nor did he hear PO Madhu use profanity against § 87(2)(b).

Witness Officer: PO CHRISTOPHER KOCIENDA

- § 87(2)(b) -old white male, 5'10" tall, 170 pounds, with blond hair and blue eyes.
- On the date of the incident, assigned to sectors K, J, and R. He worked from 11:15 p.m. on March 15, 2011 until 7:50 a.m. on March 16, 2011, was partnered with PO James Helliesen, was dressed in uniform, and was assigned to a marked vehicle #4811.

Memo Book

On March 16, 2011, a dispute with a knife at § 87(2)(b) was reported at 2:05 a.m. (encl. 16A-B). He resumed patrol at 3:00 a.m. and sector N had one arrest.

CCRB Testimony

PO Kocienda was interviewed at the CCRB on August 16, 2011 (encl. 17A-B). On March 16, 2011, at 2:05 a.m., PO Kocienda and PO Helliesen responded to a reported dispute involving a knife at § 87(2)(b) in Brooklyn. He did not remember if other officers were already at the apartment, but knew that PO Shibu Madhu, PO Awais Mazhar, Sgt. Tony Brown, and PO Derrick McIntosh. § 87(2)(b) wanted § 87(2)(b) to leave the apartment and the two were arguing. § 87(2)(b) was drunk; he was slurring his words and

smelled of alcohol. § 87(2)(b) admitted to the officers that he had been out drinking and said that was why § 87(2)(b) was mad at him. Neither mentioned a knife being involved in their dispute.

Because § 87(2)(b) and § 87(2)(b) continued to argue, PO Kocienda and Sgt. Brown took her out into the hallway outside of the apartment in order to speak with her. He did not think § 87(2)(b) provided any information to him or Sgt. Brown before he heard yelling and a commotion inside the apartment. PO Kocienda did not remember how long they had been in the hallway. He could not tell who was yelling or what was being said because the apartment door was closed.

PO Kocienda went back into the apartment and saw § 87(2)(b) standing, then “went towards” PO Helliesen and take a swing at him. PO Kocienda could not be sure, but he thought § 87(2)(b) struck PO Helliesen in the face. PO Helliesen, PO Madhu, and PO Mazhar grabbed § 87(2)(b) and took him to the floor. Sgt. Brown had also entered the apartment and assisted them with § 87(2)(b) however, PO Kocienda could not see what Sgt. Brown did. At that point, PO Kocienda turned his back on them in order to focus his attention on § 87(2)(b) who had also entered the apartment by then, to prevent her from getting involved. § 87(2)(b) was screaming.

PO Kocienda heard screaming coming from behind him. He could not tell who was screaming and did not recall if the officers gave § 87(2)(b) instructions. He did not see PO Madhu punch § 87(2)(b) in the face or head. PO Kocienda was unable to approximate how long it took the officers to handcuff him. He saw § 87(2)(b) after he was handcuffed and as he was being removed from the apartment. § 87(2)(b) did not appear to be injured. PO Kocienda did not see if § 87(2)(b) had a chipped tooth, or swelling and redness to one of his eyes.

PO Kocienda remained upstairs with § 87(2)(b) when § 87(2)(b) was taken outside to be transported to the stationhouse. He saw § 87(2)(b) being escorted out of the apartment and down the stairs and denied that PO Madhu punched § 87(2)(b) in the face outside of the apartment. There was a third civilian (§ 87(2)(b)) in the apartment who did not come out until a later point, once the incident was over. To PO Kocienda’s knowledge, PO Helliesen was the only officer injured during the incident and he went to the hospital to have his face examined.

Witness Officer: PO DERRICK MCINTOSH

- § 87(2)(b) -old black male, 5’7 “ tall, 220 pounds, with black hair and brown eyes.
- On the date of the incident, working as the sergeant’s operator. He worked from 11:15 p.m. on March 15, 2011 until 7:59 a.m. on March 16, 2011, was partnered with Sgt. Tony Brown, was dressed in uniform, and was assigned to a marked vehicle #3214. He had no memo book entries about this incident (encl. 20A-B).

CCRB Testimony

PO McIntosh was interviewed at the CCRB on August 31, 2011 (encl. 21A-B). On March 16, 2011, at approximately 2:30 a.m., PO McIntosh and Sgt. Brown responded to a reported dispute at § 87(2)(b) in Brooklyn. At no point did PO McIntosh recall a knife being involved in the dispute. He and Sgt. Brown were the second or third unit to respond. PO McIntosh did not recall who was on scene when they arrived. The only other officers he recalled at the scene was PO Shibu Madhu, PO Awais Mazhar, and PO James Helliesen.

§ 87(2)(b) was seated on a couch in the living room and § 87(2)(b) in a room (without a door) connected to living room. § 87(2)(b) and § 87(2)(b) were not yelling at one another. No other civilians were in the apartment. PO Madhu was speaking to § 87(2)(b). § 87(2)(b) was erratic and kept being cooperative then uncooperative; he was willing to leave, but

only if they got his shoes. Then § 87(2)(b) wanted § 87(2)(b) to leave, but there was no reason for them to have § 87(2)(b) leave. PO McIntosh did not remember if § 87(2)(b) used profanities when speaking to the officers.

PO McIntosh did not see § 87(2)(b) try to strike any other officers. PO Madhu grabbed one of § 87(2)(b) arms in order to handcuff him. § 87(2)(b) then “went wild.” He kicked and scratched at the officers, but PO McIntosh was unsure if he made contact with anyone. He did not see § 87(2)(b) hold his hands against his body to prevent being handcuffed. PO Helliesen grabbed § 87(2)(b) legs to stop him from kicking. Because PO Helliesen’s hand hurt due to the awkward position he was in, PO McIntosh took over holding § 87(2)(b) leg. PO McIntosh was unable to see what the other officers did to restrain § 87(2)(b) who was still seated on the couch. He never saw PO Madhu punch or hit § 87(2)(b) in the back of the head.

§ 87(2)(b) screamed during the struggle, but PO McIntosh did not recall what he screamed about. PO McIntosh never gave him instructions and did not recall hearing other officers do so. Eventually, § 87(2)(b) put his arms behind his back and he was handcuffed. § 87(2)(b) might have fallen off the couch during the approximately five-minute-long struggle. § 87(2)(b) never intervened and remained in the other room.

PO Madhu escorted § 87(2)(b) out of the apartment. PO McIntosh did not remember if any officers assisted him. He did not see any injuries to § 87(2)(b). PO McIntosh was one of the last officers to leave the apartment. Once he exited, § 87(2)(b) was no longer in the building. PO Madhu and § 87(2)(b) were still outside when PO McIntosh exited the building. § 87(2)(b) was in a vehicle. He did not hear PO Madhu curse at § 87(2)(b).

Witness Officer: SGT. TONY BROWN

- § 87(2)(b) -old Hispanic male, 5’10” tall, 190 pounds, with black hair and brown eyes.
- On the date of the incident, working as the patrol supervisor. He worked from 11:05 p.m. on March 15, 2011 until 8:02 a.m. on March 16, 2011, was partnered with PO Derrick McIntosh, was dressed in uniform, and was assigned to a marked vehicle. Sgt. Brown had no memo book entries regarding this incident (encl. 22A-C).

CCRB Testimony

Sgt. Brown was interviewed at the CCRB on June 23, 2011 (encl. 23A-B). On March 16, 2011, at approximately 2:30 a.m., Sgt. Brown and PO McIntosh responded to a dispute with a knife at § 87(2)(b) in Brooklyn. PO James Helliesen and PO Christopher Kocienda arrived simultaneously, and they were the first four officers to respond. PO Shibu Madhu and PO Awais Mazhar arrived next, possibly followed by other officers. Sgt. Brown did not recall.

When the officers went upstairs to the apartment, § 87(2)(b) opened the door and informed them that her boyfriend, § 87(2)(b) had threatened her with a knife. § 87(2)(b) was upset but did not want to press charges against him and only wanted him to leave the house. The officers entered the apartment and Sgt. Brown tried to talk to § 87(2)(b) who was in either the bathroom or the bedroom. § 87(2)(b) had the odor of alcohol on his breath. § 87(2)(b) cursed at him, was uncooperative, and unable to tell what happened. Specifically, § 87(2)(b) told Sgt. Brown, “Fuck you” and to get out of his house because he did not want him [Sgt. Brown] in there. The other officers were also unsuccessful in their attempts to get § 87(2)(b) to explain what happened. § 87(2)(b) and § 87(2)(b) were also still arguing with one another. § 87(2)(b) accused § 87(2)(b) of lying and asked her why she called the officers. Sgt. Brown never saw § 87(2)(b) with a knife.

Sgt. Brown wanted to get a better understanding of the story, so he and PO Kocienda took § 87(2)(b) out of the apartment and into the hallway. The apartment door remained about

halfway open. Sgt. Brown had just started talking to § 87(2)(b) when he heard a commotion inside the apartment. It sounded as if a lot of people were moving around and he heard voices say to “stop moving” and “give me your hands.”

Hearing the commotion, Sgt. Brown and PO Kocienda ran back inside the apartment. § 87(2)(b) was in the living room, seated on a couch or bed. § 87(2)(b) followed them back inside and there was also a young male in the living room [§ 87(2)(b)] PO Madhu, PO Mazhar, PO Helliesen, and PO McIntosh, and possibly other officers he could not recall, were trying to get § 87(2)(b) hands in order to arrest him. § 87(2)(b) elbowed and continuously kicked the officers. He refused to give his hands so that he could be handcuffed, despite Sgt. Brown loudly telling him numerous times to stop resisting and let them handcuff him.

§ 87(2)(b) eventually ran out of energy, gave up, and stopped fighting. The officers were then able to handcuff him. Sgt. Brown never assisted with his arrest as there were enough officers dealing with him. Sgt. Brown denied making physical contact with § 87(2)(b) during the incident. It took a while for officers to handcuff § 87(2)(b). Sgt. Brown did not see any officer punch § 87(2)(b).

§ 87(2)(b) refused to get up after being handcuffed. He went limp and fell off the couch/bed in the living room. As PO Madhu and PO Mazhar escorted § 87(2)(b) out of the building, he went limp. PO Madhu and PO Mazhar had to carry § 87(2)(b) downstairs and outside. § 87(2)(b) face was not rubbed against the walls of the staircase. Sgt. Brown did not see PO Madhu knee § 87(2)(b) outside while § 87(2)(b) was against a patrol car. Sgt. Brown never heard an officer use profanity when speaking to § 87(2)(b).

Sgt. Brown never saw any injuries to § 87(2)(b). § 87(2)(b) never complained to Sgt. Brown that he was injured, and Sgt. Brown did not know if an ambulance was later called for § 87(2)(b) at the stationhouse. PO Helliesen informed Sgt. Brown that § 87(2)(b) had punched him in the face. Sgt. Brown did not witness that himself but saw that PO Helliesen had a contusion somewhere on his face. PO Madhu was injured when § 87(2)(b) kicked him several times in one of his shoulders. PO Madhu was injured somewhere else, too, but Sgt. Brown did not remember where.

Medical Records

- According to the Ambulance Call Report, an ambulance arrived at the 79th Precinct stationhouse to treat § 87(2)(b) at 11:54 a.m. on March 16, 2011 (encl. 24A-V). It was noted that he was either suspected of or severely intoxicated on alcohol. § 87(2)(b) had swelling and pain under his right eye, bruising and pain to his lower left leg, and his left front tooth was chipped during the incident. § 87(2)(b) had no bleeding or deformity. He was transported to § 87(2)(b) with an officer escort.
- According to his medical records from § 87(2)(b) § 87(2)(b) was triaged in the ER at § 87(2)(b) (encl. 24A-V). A triage assessment showed he had a chipped tooth, right orbital swelling, and leg pain. The Emergency Physician Record was completed at § 87(2)(b). A physical exam revealed that he had raccoon eyes to both eyes, a broken tooth, an abrasion to his right wrist, and ecchymosis and tenderness to his left knee. § 87(2)(b) received a head CT scan of the facial bones, which showed an acute medial right orbital wall fracture and slight retro orbital emphysema [abnormal distention]. He also received a head CT scan (images from the skull base to the apex) and the results showed no evidence of acute intra-cerebral abnormalities. X-rays to his right wrist, left tibia and fibula, and left knee were negative for fracture or dislocation. § 87(2)(b) chart indicated that he sustained a right medial orbital wall fracture secondary to blunt trauma to the face. He had mild peri-orbital edema, mild right peri-orbital ecchymosis [a discoloration due to

extravasation of blood], and mild right eye subconjunctival hemorrhage. No surgical intervention was required at the time for § 87(2)(b) right orbital wall fracture. He was also diagnosed with contusion(s). According to his aftercare instructions, § 87(2)(b) was to take 400 mg. Ibuprofen and 875 mg. Augmentin tablets (antibiotic).

- According to § 87(2)(b) dental records from § 87(2)(b) on § 87(2)(b), he had trauma to the face (encl. 26A-D). He had broken front teeth and a swollen zygoma (area near cheekbone). Both of his front/top teeth were extracted due to trauma.
- According to his medical records from § 87(2)(b) § 87(2)(b) arrived at the ER as a walk-in at § 87(2)(b) (encl. 7A-M). He had pain and redness to his eye and the top of his right wrist (with swelling) after falling 12 days prior (encl.). An x-ray of the right wrist showed “no evidence of fracture” and the articulation, bone mineralization, in soft tissue appears to be unremarkable. The impression stated “evidence of fracture is noted.” § 87(2)(b) received instructions to follow up with his primary care physician for hand surgery. He was diagnosed with right wrist pain and right eye injury. § 87(2)(b) informed the hospital staff that one week prior, he was diagnosed at § 87(2)(b) with a right orbital fracture.

NYPD Documents

SPRINT Report and Communications CD

SPRINT #§ 87(2)(b) indicated that at 2:09 a.m. on March 16, 2011, § 87(2)(b), § 87(2)(f)

At 2:10 a.m., § 87(2)(b) called 911 to report a dispute at the same location. According to the communication CD, § 87(2)(b) stated that girlfriend was harassing him, wanted him to leave the apartment, and threatened him with a knife. § 87(2)(b) did not have slurred speech. Sector C from the 79th Precinct was assigned the call. Sectors E, K, and N, as well as the patrol supervisor, also responded. At 2:30 a.m., sector N reported one arrest and they were transporting the perpetrator to the stationhouse.

Arrest for Incident and Disposition

- [§ 87(2)(b)] [§§ 86(1)(3)&(4)] [§ 87(2)(c)]

Status of Civil Proceedings

- § 87(2)(b) filed a Notice of Claim with the City of New York on § 87(2)(b), claiming that he was falsely arrested and assaulted by the NYPD and seeking an unspecified amount as redress (encl. 33A-B).

Civilian Criminal History

- [§ 87(2)(b)] [§§ 86(1)(3)&(4)] [§ 87(2)(c)]

- [§ 87(2)(b)] [§§ 86(1)(3)&(4)] [§ 87(2)(c)]

Civilian CCRB History

- This is the first complaint filed by [§ 87(2)(b)] (encl. 3).

Officer CCRB Histories

- PO Madhu has been a member of the service for four years and there are two substantiated CCRB allegations against him (encl. 2).
 - In CCRB case 200912984, the Board recommended charges when it substantiated allegations of physical force and premise entered/searched. The NYPD took no disciplinary action against him.
- Sgt. Brown has been a member of the service for six years and there are no substantiated CCRB allegations against him (encl. 2.1).

Conclusion

Identification of Subject Officers

- [§ 87(2)(b)] said that the officer who told him to get his “shit” and get the “fuck” out was the same officer who punched him in the face in the apartment and hallway, and who kned him in the back outside. [§ 87(2)(b)] was inconsistent about the officer who punched him in the face inside of the apartment, stating that it was PO Madhu but later saying it was not. However, PO Madhu acknowledged punching [§ 87(2)(b)] in the face in the apartment. PO Madhu also fit the description [§ 87(2)(b)] provided. [§ 87(2)(b)] saw that the officer who punched [§ 87(2)(b)] in the face (PO Madhu) was the same officer who then hit [§ 87(2)(b)] in the back of the head. [§ 87(2)(g)]

Allegation Not Pleaded

- [§ 87(2)(b)] alleged that a white male officer told [§ 87(2)(b)] that he was “fucking pissing” him off. [§ 87(2)(b)] [§ 87(2)(b)] never made this allegation himself, [§ 87(2)(g)]

Investigative Findings and Recommendations

Allegation A – PO Shibu Madhu spoke obscenely to [§ 87(2)(b)] inside of [§ 87(2)(b)] in Brooklyn.

[§ 87(2)(b)] alleged that PO Madhu told him to get his “shit” and get the “fuck” out of the apartment. He also alleged that after he was arrested and outside, PO Madhu called him a “motherfucker.” PO Madhu denied cursing at [§ 87(2)(b)] during the incident.

[§ 87(2)(b)] heard an officer tell him to get the “fuck” out of there, but not to get his “shit” together. [§ 87(2)(b)] was not able to corroborate the discourteous remarks in the apartment. Neither [§ 87(2)(b)] nor [§ 87(2)(b)] left the building with [§ 87(2)(b)] and could not provide testimony about the second discourteous remark. None of the other five officers interviewed by the CCRB corroborated [§ 87(2)(b)] claims. [§ 87(2)(g)]

Allegation B – PO Shibu Madhu used physical force against § 87(2)(b) inside of § 87(2)(b) in Brooklyn.

§ 87(2)(b) alleged that while he was seated on the couch, PO Madhu (unprovoked and for no reason) punched him once in the face, causing his front left tooth to chip, and then punched him several times on the back of his head. § 87(2)(b) claimed that eight to ten of the officers (including PO Madhu) beat § 87(2)(b) multiple times on the top/back of his head. According to § 87(2)(b) PO Madhu was trying to handcuff § 87(2)(b) and punched him in the eye, and that after he was handcuffed, § 87(2)(b) fell to the floor and PO Madhu punched him twice on the top/back of his head.

It is not disputed that § 87(2)(b) had been drinking alcohol that evening and refused several requests by the officers to leave the apartment after an argument with § 87(2)(b). According to PO Madhu, PO Mazhar, PO Kocienda, and PO Helliesen, § 87(2)(b) got up from the couch and punched PO Helliesen in the face. When the officers attempted to handcuff him, § 87(2)(b) resisted arrest by kicking, flailing his arms, and scratching at the officers. He ignored commands by PO Madhu and the other officers to stop resisting and so PO Madhu punched him more than once in the face. PO Madhu stated that then they were able to successfully handcuff him. None of the other officers corroborated PO Madhu's admission that he punched § 87(2)(b).

§ 87(2)(b) § 87(2)(b) criminal charges included § 87(2)(b).

§ 87(2)(b) also alleged that in the hallway outside of the apartment, PO Madhu punched him once in the right eye (again, unprovoked and for no reason), causing his eye to become bloody, swollen, bruised, and watery. At the time, § 87(2)(b) was standing in the doorway and § 87(2)(b) was standing in the doorway. Neither of them saw PO Madhu punch § 87(2)(b) in the face at that point. PO Madhu denied doing punching § 87(2)(b) while in the hallway and none of the officers corroborated § 87(2)(b) claim regarding that punch.

§ 87(2)(b) medical records confirms that he sustained a chipped front tooth, an acute right orbital wall fracture that did not require surgical intervention, and a mild subconjunctival hemorrhage to his right eye. The investigation determined that the punch to the eye occurred during the struggle to handcuff § 87(2)(b) and not in the hallway as he claimed, given that PO Madhu admitted to punching him more than once and no one saw § 87(2)(b) get punched in the hallway.

According to Patrol Guide Procedure 203-11, officers are primarily concerned with preserving human life and that they may only use the amount of force necessary to overcome resistance and to effect an arrest (encl. 1A-B). § 87(2)(g)

§ 87(2)(b)
§ 87(2)(b)
§ 87(2)(b)
§ 87(2)(b)
§ 87(2)(b)

Allegation C – PO Shibu Madhu used physical force against § 87(2)(b) inside of § 87(2)(b) in Brooklyn.

§ 87(2)(b) alleged that PO Madhu rubbed the right side his face against the wall down a half flight of stairs, causing him to sustain scrapes to his face. § 87(2)(b) was in the hallway and saw PO Madhu rub § 87(2)(b) face against the wall as they walked down the stairs. § 87(2)(b) standing at the doorway, saw three officers (not PO Madhu, but one of the white officers and either PO McIntosh or Sgt. Brown) take § 87(2)(b) downstairs, and he did not see any officers rub § 87(2)(b) face against the wall. PO Madhu denied doing that and none of the other officers corroborated this allegation. Further, § 87(2)(b) claimed he sustained scrapes on

his face as a result but neither his medical records nor his arrest photo documented scrapes to his face. § 87(2)(g)

Allegation D – PO Shibu Madhu used physical force against § 87(2)(b) in front of § 87(2)(b) in Brooklyn.

§ 87(2)(b) also alleged that once they were outside, PO Madhu kned him three or four times in the lower back. PO Madhu denied doing that, which PO Mazhar corroborated. PO Madhu and PO Mazhar both stated that § 87(2)(b) refused to get into the vehicle, either by kicking at them or positioning his body so that he could not be placed inside. § 87(2)(g)

PO Madhu and PO Mazhar stated that they had to back him up a few steps and push him head-first inside of the vehicle. § 87(2)(g)

§ 87(4-b) § 87(2)(g)

Team: _____

Investigator: _____	<u>Hilary Hudson</u>	_____
Signature	Print	Date

Supervisor: _____	_____	_____
Title/Signature	Print	Date

Reviewer: _____	_____	_____
Title/Signature	Print	Date

Reviewer: _____	_____	_____
Title/Signature	Print	Date